

REMARKS

This responds to the Office Action mailed on June 1, 2006, and the references cited therewith.

Claims 1, 2, 6, 9-11, and 31-40 are amended. Claims 33-40 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claims 1-6, 31-36 and 40 were rejected under 35 U.S.C. § 102(b) for anticipation by Trostle (U.S. 5,919,257). Claims 7-8 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle. Claims 9-19 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle in view of Miller ("The Complete Idiot's Guide to Online Auctions, July 1999"). Finally, Claims 20-30 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle in view of Miller as applied to claims 19 and 38 above, and further in view of Smaha et al. (U.S. 5,557,742). Reconsideration is respectfully requested in view of the following.

§112 Rejection of the Claims

Claims 33-40 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness and for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner contented that claim 33-40 were system claims directed to software only. Applicants have amended claims 33-39 to overcome this rejection. In particular Applicants have changed "process for" to "processor for" where applicable to recite structure. Applicants note that claim 40 recites "means for" in both elements and therefore is not indefinite. Reconsideration is respectfully requested.

Prior Art Rejection of the Claims

The Examiner has rejected claims 1-6, 31-36 and 40 under 35 U.S.C. § 102(b) for anticipation by Trostle (U.S. 5,919,257). Claims 7-8 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle. Claims 9-19 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle in view of Miller ("The Complete Idiot's Guide to Online Auctions, July 1999"). Finally, Claims 20-30 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trostle in view of Miller as applied to claims 19 and 38 above, and further in view of Smaha et al. (U.S. 5,557,742).

Claim 1, recites:

A method to detect fraudulent activities at a network-based transaction facility, the method comprising:
causing a first identifier associated with a first user identity to be stored on a machine responsive to a first sales-related event with respect to the network-based transaction facility and initiated under the first user identity from the machine which is coupled to the network-based transaction facility via a network; and
detecting a potentially fraudulent activity by detecting a lack of correspondence between the first identifier stored on the machine and a second identifier associated with a second user identity responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine.

It is respectfully noted that anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. *See Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). “The *identical invention* must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

The Trostle reference is directed to a system and method for detecting and preventing the modification of pre-boot executables (programs) on a workstation that may be linked to a server. In passing the Trostle reference describes several password verification schemes including counting the number of password attempts. The Trostle reference does not describe or teach storing a first user identity responsive to a first sales-related event with respect to the network-based transaction facility. The Trostle reference is directed to protecting pre-boot executables on workstations coupled to a server. The Trostle reference does not teach or describe a transaction facility or a server used in a transaction facility. Further, the Trostle reference does not teach detecting the lack of correspondence between a first identifier stored on a machine and a second

identifier. The Trostle reference suggests storing information related to a first user identity on a machine but does not teach comparing that stored information to a second identity (second user).

The Trostle references teaches checking the password of a single, first user NOT whether a different user is using the workstation. Nevertheless, the Trostle reference does not teach initiating a comparison between a first user identity (identifier) and a second user identity (identifier) “responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine” as recited by claim 1.

The Smaha reference (US Pat. No. 5,557,742) is directed to improving expert systems that attempt to automatically detect intrusions or data misuse for a processing system. The Smaha reference does not teach or describe storing a first user identity responsive to a first sales-related event with respect to the network-based transaction facility. In addition, the Smaha reference does not teach initiating a comparison between a first user identity (identifier) and a second user identity (identifier) “responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine” as recited by claim 1.

The Miller reference (“Complete Idiot's Guide to Online Auctions”, July 1999) describes basics of on line auctioning systems. The Miller reference does not teach or describe storing a first user identity responsive to a first sales-related event with respect to the network-based transaction facility. In addition, the Miller reference does not teach initiating a comparison between a first user identity (identifier) and a second user identity (identifier) “responsive to a second sales-related event with respect to the network-based transaction facility and initiated under the second user identity from the machine” as recited by claim 1.

In view of these differences between the invention recited by claim 1 and the Trostle, the Smaha, and the Miller reference, Applicants respectfully contend that claim 1 is not anticipated by or obvious in view of these references.

Claims 2-30:

Claims 2-30 are directly or indirectly dependent on claim 1. In view of at least the arguments made for claim 1, Applicant respectfully contends that claims 2-30 are not anticipated

by or obvious in view of the Trostle reference, or in combination with the Trostle reference, the Miller reference, and the Smaha reference.

Claim 31:

Claim 31 recites a computer readable medium comprising instructions that when executed may perform the method recited by claim 1. Applicant respectfully contends that claim 31 is not anticipated by or obvious in view of the Trostle reference, or in combination with the Trostle reference, the Miller reference, and the Smaha reference based on at least the arguments presented for claim 1.

Claim 32:

Claim 32 recites a method similar as recited by claim 1. Applicant respectfully contends that claim 32 is not anticipated by or obvious in view of the Trostle reference, or in combination with the Trostle reference, the Miller reference, and the Smaha reference based on at least the arguments presented for claim 1.

Claim 33:

Claim 33 recites a system including processors for performed the method for claim 32. Applicant respectfully contends that claim 33 is not anticipated by or obvious in view of the Trostle reference, or in combination with the Trostle reference, the Miller reference, and the Smaha reference based on at least the arguments presented for claim 1.

Claims 34-39:

Claims 34-39 are directly or indirectly dependent on claim 33. In view of at least the arguments made for claim 1, Applicant respectfully contends that claims 34-39 are not anticipated by or obvious in view of the Trostle reference, or in combination with the Trostle reference, the Miller reference, and the Smaha reference.

Claim 40:

Claim 40 recites a system including means for performed the method for claim 32.

Applicant respectfully contends that claim 40 is not anticipated by or obvious in view of the Trostle reference, or in combination with the Trostle reference, the Miller reference, and the Smaha reference based on at least the arguments presented for claim 1.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 858-551-2030 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

CHRISTINE CHENG ET AL.


By their Representatives,

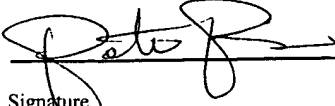
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
858-551-2030

Date October 27, 2006

By 
Merle W. Richman
Reg. No. 38,282

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 27 day of October 2006.


Name


Signature